

APPENDIX F

General Order No. 4

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

IN THE MATTER OF:	)	
	)	GENERAL ORDER NO. 4
STATEWIDE EQUALIZATION	)	
DUTIES OF THE TAX	)	ORDER ADOPTING PROCEDURES
EQUALIZATION AND	)	FOR 1996
REVIEW COMMISSION	)	
	)	

THIS MATTER came on for hearing this 29th day of July, 1996.

The Commission makes the following findings of fact:

- I. The Legislature of the State of Nebraska adopted LB490 in 1995, which created the Tax Equalization and Review Commission (hereinafter "Commission"). The bill was duly signed into law, with an effective date of January 1, 1996.
- II. Pursuant to that law, on February 20, 1996, the Legislature of the State of Nebraska confirmed the appointments of the members of the Commission.
- III. The Legislature thereafter proposed a constitutional amendment, known as LR3CA, which proposed the transfer of all statewide equalization of assessments for property tax purposes to the Commission.
- IV. LR3CA was placed on the May 14, 1996, ballot, was duly approved by the voters of the State of Nebraska, and was the subject of a proclamation dated June 25, 1996, which declared that the amendment was effective and a part of the State Constitution, now known as Art. IV, §28, Paragraph 2.

- V. The Attorney General has issued an opinion, Number 96054, which states that the amendment divests the State Board of Equalization and Assessment of the power which it previously possessed to perform statewide equalization.
- VI. That Opinion further states that the Constitutional Amendment necessarily operates to supersede or repeal by implication all inconsistent statutes.
- VII. That Opinion further states that the Commission may, based on its constitutional power to review and equalize assessments by virtue of the Constitutional Amendment and may further establish a procedure to consider petitions by counties to adjust valuations by a class or subclass in a manner similar to that contemplated by Neb. Rev. Stat. §77-1504.01.
- VIII. That given the significant changes to the property tax system which were implemented this year, further changes in the process would disrupt the assessment process and be detrimental to taxpayers, county assessors, county clerks, county treasurers, county boards of equalization, and the Department of Revenue.

IT IS THEREFORE ORDERED that the following procedures are adopted pursuant to the inherent constitutional authority of the Commission, and these procedures shall govern the exercise of the authority of the Commission to review and equalize assessments of property for taxation within this state for the balance of 1996:

- I. Based upon the hearings conducted pursuant to sections 77-1502 and 77-1504, any county board of equalization may petition the Tax Equalization and Review Commission to consider an adjustment to a class or subclass of real property within the county. Petitions must be filed with the Commission on or before August 4. The Commission shall hear and take action on a petition filed by a county board of equalization on or before August 15. Hearings conducted pursuant to this section shall be in the manner prescribed by section 77-508. The burden of proof is on the petitioning county which must show that failure to make an adjustment would result in values that are not equitable and in accordance with the law. The Commission shall recertify the abstract of assessment of any county which has been adjusted by the action of the Commission pursuant to this provision to the county assessor on or before August 15. (Source: Neb. Rev. Stat. §77-1504, 1995 Supp.)
- II. At a hearing on a petition filed pursuant to this Resolution, the legal representatives of the county may appear on behalf of the county. Therefore, the county may be represented by the county attorney, or any other legal representative of the County. (Source: Neb. Rev. Stat. §77-508, 1995 Supp.)
- III. In order to assist the Commission in determining whether the petition should be granted, the Property Tax Administrator shall serve as an advocate of the facts which he or she shall present to the Commission. The Property Tax

Administrator shall provide such facts in the form of evidence, which shall be based upon the valuation techniques set forth in section 77-112, when applicable, as well as a sales-assessment ratio study, as well as any other facts, data, studies or information which the Property Tax Administrator, or his or her employees, contractors and/or agents may possess which establish whether values as to the class or subclass are or are not equitable and in accordance with the law. (Source: Neb. Rev. Stat. §77-508.01, 1995 Supp.)

- IV. On or before August 15, the Property Tax Administrator shall certify the distributed taxable value of the property valued by the state, as equalized by the Commission. (Source: Neb. Rev. Stat. §77-509.02, 1995 Supp.)
- V. The exclusive method for appealing a final action of the Commission with respect to the equalization of any property, any person, county, or municipality affected thereby shall prosecute an appeal to the Court of Appeals. Upon demand therefore, the Commission shall prepare and certify a transcript of its records and proceedings involved in the action. Notice of intention to obtain a review shall be filed within ten (10) days from the date of the action by the board. (Source: Neb. Rev. Stat. §77-510, 1994 Cum. Supp.)

**IT IS SO ORDERED.**

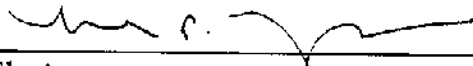
Dated this 29th day of July, 1996.

ALL COMMISSIONERS JOIN IN THIS ORDER.

*I hereby attest that the above and foregoing Findings and Order were adopted by the Commission after a roll call vote on the 29th day of July, 1996.*

SEAL



  
Chairman